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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,520	03/30/2004	Anthony G. Liepert	04-04 US	3306

23693 7590 11/22/2006

Varian Inc.
Legal Department
3120 Hansen Way D-102
Palo Alto, CA 94304

EXAMINER

TRIEU, THERESA

ART UNIT PAPER NUMBER

3748

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,520

Applicant(s)

LIEPERT ET AL.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sept. 12, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9-13,15,17,18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 6-8,14,16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9-13,15,17,18 and 20 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the applicants' amendment filed on Sept. 12, 2006.

Claims 1, 3, 11, 12, 17 and 18 have been amended. Claim 2 has been canceled. Claims 6-8, 14, 16 and 19 have been withdrawn. Accordingly, claims 1, 3-5, 9-13, 15, 17, 18 and 20 are pending in this application.

Applicants' cooperation in correcting the informalities in the specification is appreciated.

Election/Restrictions

1. Applicants' arguments with respect to claims 8 and 19 have been considered but they are not persuasive. Specifically, "four flat sections 312, 314, 316, 318 formed a closed loop having a generally square with right angle corners, connections 320, 322, 324, 326 connect flat sections to the scroll elements" contained in Fig. 9 is not contained in Fig. 4A. Therefore, claims 8 and 19 belong to species disclosed in Figure 9 and the examiner has not examined these claims. The examiner has examined claims 1, 3-5, 9-13, 15, 17, 18 and 20 which read on the elected species of Figures 4A and 7 as set forth in the Office Action mailed on June 12, 2006. Claims 8 and 19 are withdrawn from consideration as being directed to a non-elected species.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 9-13, 15, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer et al. (Fischer) (Patent Number 4,371,323).

Regarding claims 1, 3, 4, 9-13 and 15, Fischer (as shown in Figs. 1-3) discloses scroll pumping apparatus comprising: first and second scroll elements (1, 5); a drive mechanism (2) operatively coupled to the second scroll element for producing orbiting motion of the second scroll element relative to the first scroll element, the drive mechanism having an axis of rotation (3); and a synchronization device (16, 17, 18, 19, 22, 23) comprising a strip having connected, substantially flat sections coupled between the first and second scroll elements (1, 5 – see col. 4, line 1-9), wherein the synchronization device has a generally square configuration as view along the axis of the drive mechanism; the substantially flat sections of the synchronization device being joined by connecting sections; the connecting sections having a radius (see Fig. 2); the first scroll element comprising a stationary scroll element (1) and the second scroll element comprising an orbiting scroll element (5); scroll pumping apparatus being as a vacuum pump or as a compressor; the strip including areas for connection to the orbiting scroll element (5) and areas for connection to the stationary component (1) of the scroll pumping apparatus; the synchronization device having a closed loop configuration.

The method claims 17, 18 and 20 are inherent in the operation of Fischer device.

Allowable Subject Matter

3. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-5, 9-13, 15, 17, 18 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on March 30, 2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT
November 18, 2006



Theresa Trieu
Primary Examiner
Art Unit 3748